



WEB COPY



CRP.No.5249 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5249 of 2025 and
CMP.No.26434 of 2025

1.Nirmala @ Manju
2.Manoj

... Petitioners

Vs.

Ramya

...Respondent

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India, praying, to set aside the order dated 24-07-2025 in MP.No.6 of 2025 in DVC.No.10 of 2024 on the file of the Judicial Magistrate No.I, Kallakurichi and consequently discharge the petitioners from DVC.No.10 of 2024, on the file of the Judicial Magistrate No.I, Kallakurichi.

For Petitioner : Mr.P.Sesubalan Raja

ORDER



The Civil Revision Petition is filed challenging the order passed by the court below dismissing the application filed by the petitioners/ mother-in-law and brother-in-law of the respondent under Section 25 of the Protection of Women from Domestic Violence Act.

2. The Full Bench of this Court in the case of ***Arul Daniel and Others Versus Suganya*** reported in (2022) SCC Online Mad 5435 held that any person aggrieved by the process issued by the Magistrate can go before the very same Magistrate and raise preliminary objections with regard to the issues like existence of a shared household/ domestic relationship etc., If any order is passed, the aggrieved person can also take recourse to an appeal under Section 29 of the Domestic Violence Act. The relevant portion reads as follows:-

87(vii). *As there is no issuance of process as contemplated under Section 204, Cr.P.C. in a proceeding under the D.V. Act, the principle laid down in Adalat Prasad v. Rooplal Jindal ((2004) 7 SCC 338) that a process, under Section 204, Cr.P.C, once issued cannot be reviewed or recalled, will not apply to a proceeding under the D.V. Act. Consequently, it would be open to an aggrieved respondent (s) to approach the Magistrate and raise the issue of maintainability and other preliminary issues. Issues like the existence of a shared household/domestic relationship etc.,*



which form the jurisdictional basis for entertaining an application under Section 12, can be determined as a preliminary issue, in appropriate cases. Any person aggrieved by such an order may also take recourse to an appeal under Section 29 of the D.V. Act for effective redress (See V.K. Vijayalekshmi Amma v. Bindu V., (2010) 87 AIC 367). This would stem the deluge of petitions challenging the maintainability of an application under Section 12 of the D.V. Act, at the threshold before this Court under Article 227 of the Constitution.

3. In view of the availability of alternative remedy to the petitioners before the Sessions Court under Section 29 of the Domestic Violence Act, this Court is not inclined to exercise supervisory power under Article 227 of the Constitution of India as held by the Hon'ble Apex Court in the case of ***Virudhunagar Nadargal Dharma Paripalana Shabha Vs Tuticorin Educational Society*** reported in ***MANU/SC/1365/2019***.

4. Accordingly, the Civil Revision petition stands dismissed with liberty to the petitioners to avail alternative remedy available under Section 29 of Domestic Violence Act. No costs. Consequently, the connected miscellaneous petition is closed.



CRP.No.5249 of 20...

5. The petitioners are entitled to exclude the time taken by them in prosecuting the revision before this court, i.e., from 03-09-2025 to the date of receipt of a copy of this order while calculating the limitation for filing appeal before the Sessions Court.

03.11.2025

Index : Yes / No

Internet : Yes / No

nr

Note:Registry is directed to return the original order to the counsel appearing for the petitioners.

To

The learned Judicial Magistrate No.I, Kallakurichi

S.SOUNTHAR , J.

nr



WEB COPY



CRP.No.5249 of 2025

CRP.No.5249 of 2025 and
CMP.No.26434 of 2025

03.11.2025